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December 15, 2010

By ECF

The Honorable Sandra L. Townes
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Thomas, et al. v. NYC Dep't of Education, et al.
Docket No. 09 Civ. 5167 (SLT)(RLM)

Dear Judge Townes:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for the defendants in the above-referenced matter. I write in response to the letter, dated December 13, 2010, from Joy Hochstadt, attorney for four of the six named plaintiffs ("Letter").

In the Letter, Ms. Hochstadt requests that the Court order a "status report" from the New York City Department of Education ("DOE"), regarding an April 15, 2010 agreement between it and the United Federation of Teachers ("UFT") which, *inter alia*, sets forth timeframes and deadlines for closing the DOE's teacher reassignment centers and for holding disciplinary trials. Incredibly, Ms. Hochstadt asserts that "it is incumbent that the DOE report on their assertions under oath by a DOE official (Chancellor and or Deputy Chancellors) on the progress made to the specific assertions in the [April 15th agreement] **before** there is a decision on the motion to dismiss." Letter at 4 (emphasis in the original). This grandiose pronouncement is patently frivolous and Ms. Hochstadt's request should be denied.

First, on July 27, 2010, defendants filed a fully briefed and dispositive motion to dismiss plaintiffs' claims pursuant to Fed. R. Civ. P. 12 (b)(6). Upon defendants' application, Magistrate Judge Mann stayed discovery, by Memorandum and Order dated September 14, 2010. Ms. Hochstadt did not file any objections to that decision, which, *inter alia*, characterized plaintiffs' claims as a "moving target." Further, as defendants advised the Court, by letter dated November 18, 2010, plaintiffs' claims mirror many of the claims roundly dismissed in Adams v. New York State Educ. Dep't, 08 CV 5996 (VM)(AJP), an action pending in the United States District Court for the Southern District of New York. Ms. Hochstadt is counsel for two plaintiffs in Adams, one of whom, Josefina Cruz, is also a plaintiff here.

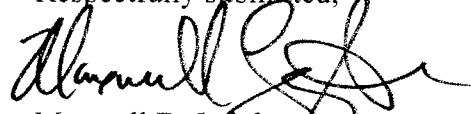
Second, Ms. Hochstadt's Letter reads like an unauthorized sur-reply brief in which she regurgitates arguments previously made in her opposition papers, (see Letter at 2-3), and impermissibly cites to matters outside of the pleadings. See Letter at 2-5. Among other things, she purports to summarize a *New York Times* article, talks about her recent experiences as an advocate in certain 3020-a arbitrations and inexplicably describes her comments to a *New York Post* reporter about Magistrate Judge Peck's report and recommendation of sanctions against her in the Adams action.

Ms. Hochstadt's stated reason for presenting this application is to ask the Court to direct DOE to submit some sort of a status report on its implementation of its April 15th agreement with the UFT. Bizarrely, she ends the Letter by dropping a footnote which in essence tells the Court she will be augmenting her request and filing "the inclusions desired relative to [the April 15th agreement] . . . within the next 72 hours." Letter at 5, n. 2.

Ms. Hochstadt cites no law or order of this Court entitling her to the relief requested. In short, her request is nothing more than, a bald application for comprehensive court-monitoring prior to a single issue having been decided in this case. Further, Ms. Hochstadt implies that she will seek additional status reports for other years and prior agreements. Neither the DOE nor this Court should have to waste precious resources on this type of unreasonable and vexatious request.¹

Accordingly, Ms. Hochstadt's application must be denied.

Respectfully submitted,



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Assistant Corporation Counsel

cc: Joy Hochstadt (by ECF)
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¹ Plaintiff also seeks "parallel reports" from the UFT and the administrative staff union, neither of which is a party here.